

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ANTHONY VOLIVA,

Plaintiff,

V.

KEN STOLLE, *et al.*,

Defendants.

Civil Action No. 3:22-cv-320-HEH

MEMORANDUM OPINION
(Dismissing Action Without Prejudice)

Plaintiff, a Virginia inmate proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action. By Memorandum Order entered on October 31, 2022, the Court directed Plaintiff to file a particularized complaint within thirty (30) days of entry thereof. (ECF No. 17.) The Court provided Plaintiff with a detailed explanation on how to comply with this directive. However, Plaintiff did not submit a particularized complaint, as directed. Rather, Plaintiff requested additional time to complete his particularized complaint, and the appointment of counsel. By Memorandum Order entered on December 13, 2022, the Court denied Plaintiff's request for counsel but granted him additional thirty (30) days to submit his particularized complaint. (ECF No. 20.) Plaintiff once again failed to submit a particularized complaint. Instead, Plaintiff filed a Motion for Leave to File an Amended Complaint. (ECF No. 21.) However, Plaintiff failed to include an amended complaint with his motion. By Memorandum Order entered

on February 6, 2023, the Court denied his Motion for Leave to File an Amended Complaint and provided Plaintiff a final opportunity to submit a particularized complaint.

Once again, instead of filing a particularized complaint, on March 8, 2023, the Court received a Motion for Aid and Direction wherein Plaintiff asked for legal advice, complained that he was unable to obtain the “names of personnel that retaliated against him and every time denied or ignored,” and he complained that he has been denied access to the law library, which has inhibited his ability to file a particularized complaint. (ECF No. 24 at 1–2.) Plaintiff also renewed his request for the appointment of counsel and asked the Court to order Ken Stolle, the Sheriff, to come talk to him. (*Id.* at 2.) By Memorandum Order entered on March 27, 2023, the Court explained that it:

fails to discern how Plaintiff cannot obtain the names of staff who are around him every day in the facility. Plaintiff also fails to identify the procedural vehicle that would permit the Court to order the facility to allow him access to the sheriff or the library. Moreover, as explained before, Plaintiff’s submissions show that he is competent to litigate this action, and his renewed request for appointment of counsel, and any other relief he requests in the Motion for Aid and Direction (ECF No. 24) is DENIED.

Nevertheless, the Court will provide Plaintiff with a thirty (30) day extension of time to file his particularized complaint. If Plaintiff has not filed a particularized complaint within thirty (30) days of the date of entry hereof, the Court will dismiss the action without prejudice.

(ECF No. 25 at 2.)

More than thirty (30) days have elapsed since the entry of the March 27, 2023 Memorandum Order. Plaintiff failed to submit a particularized complaint or otherwise respond to the March 27, 2023 Memorandum Order. Accordingly, the action will be dismissed without prejudice.

An appropriate Final Order will accompany this Memorandum Opinion.



/s/

Henry E. Hudson

Senior United States District Judge

Date: MAY 9, 2023
Richmond, Virginia